

***APPROVED MINUTES*** of the Regular  
Meeting of the City Council of the City of Rye held in  
City Hall on September 3, 2003 at 8:00 P.M.

PRESENT:

STEVEN OTIS, Mayor  
FRANKLIN J. CHU  
CAROLYN CUNNINGHAM  
ROBERT S. CYPHER  
ROBERT H. HUTCHINGS  
ROSAMOND LARR  
DOUGLAS McR. MCKEAN  
Councilmen

ABSENT:     None

1.     Pledge of Allegiance

Mayor Otis called the meeting to order and invited the Council to join in the Pledge of Allegiance.

2.     Roll Call

Mayor Otis asked the City Clerk to call the roll; a quorum was present to conduct official city business.

Announcements by the Mayor

Mayor Otis welcomed O. Paul Shew who began his job as the new City Manager on August 25, 2003. He said Mr. Shew has already made the rounds of employees and merchants and the Council is excited and enthusiastic about working with him. Mr. Shew responded by saying it was a pleasure to be with everyone and he was looking forward to the opportunity.

The Mayor thanked Frank Culross for his five months as Interim City Manager, adding to his 22 years as Rye's City Manager. He said Mr. Culross' heart is truly with the City of Rye and he had provided great service in filling a gap. The Mayor and the Council presented Mr. Culross with the key to the City – a gift they had neglected to bestow upon his first departure.

3.     Residents may be heard who have matters to discuss that do not appear on the agenda

*Peter Rolland*, 731 Milton Road, suggested the taxpayers have an opportunity to tour the Milton Fire House before being asked to vote on additional funds for the Locust Avenue Fire House as it is important for the public to see what has been done. Mayor Otis said the suggestion

has already been made by the Fire Department as they want the public to understand why some of the facilities are the way they are (meeting OSHA requirement for co-ed facilities, for example). He said a public dedication of the building is scheduled during Fire Safety Week in mid-October, as are tours of the Locust Avenue Fire House. Councilman Cypher said he would be doing an "Eye on Rye" piece on the subject.

*Paula Young*, wildlife rehabilitator in Harrison and Director of the Mt. Vernon Animal Shelter told the Council they were lucky to have Jill Doornick in her home rehabilitating ailing birds and requested the Council allow Ms. Doornick to continue her valuable work at home without further restrictions. She suggested that if Ms. Doornick cannot take care of sick birds, and the Nature Center will not assist, the birds, who have nowhere else to go, should be deposited in front of City Hall. Mayor Otis said he was aware of all the good work Ms. Young and Ms. Doornick do and assured her Rye is not insensitive to animals. He said the City has worked with Ms. Doornick for years, but there have been neighbor complaints and everyone's needs have to be balanced. He referred the matter back to the City Manager. Councilman McKean suggested alternate rehabilitation sites, such as the Edith Reed Sanctuary, be explored.

4. Continuation of public hearing on proposed local law amending Chapter 196, Wireless Telecommunication Facilities, of the Code of the City of Rye

This agenda item was postponed until the next regular meeting of the City Council.

5. Consideration of a revised resolution supporting the creation of a regional stormwater district

City Manager Shew noted that the resolution supporting the creation of a regional stormwater district assumes ten likely (and possibly twelve) communities may form the regional district; that the resolution does not bind Rye to join, but asks that the idea be explored in more depth. He said that joining such a district would provide protection, but could require a significant amount of money. Councilman Cypher said he was glad to see the added language calling for more exploration and the Mayor said other communities were interested in adding the same kind of language as Rye and were adopting Rye's lead in making changes in the resolution.

Councilwoman Cunningham made a motion, seconded by Councilman McKean, to adopt the following resolution:

**CREATION OF A REGIONAL STORMWATER DISTRICT**

**WHEREAS**, the Long Island Sound Watershed Inter-Municipal Council (LISWIC) was created in 1999 through inter-municipal agreements approved by each legislative body pledging their support to work together on a regional basis to improve water quality through the management of stormwater runoff, the protection of animal and plant habitats, and the maintenance and improvements to tributaries in the watershed leading to Long Island Sound; and

**WHEREAS**, the twelve municipalities in LISWIC, the Cities of Mount Vernon, New Rochelle and Rye, Town of Mamaroneck, Town/Villages of Harrison and Scarsdale, and Villages of Larchmont, Mamaroneck, Pelham, Pelham Manor, Port Chester and Rye Brook, have worked cooperatively to address stormwater problems; and

**WHEREAS**, LISWIC is aware of the financial commitment required from municipalities when they act separately to properly address stormwater operational, maintenance and capital improvements and believes that a regional body can immeasurably improve stormwater management and basin-wide planning utilizing a fee based funding source which does not rely on the already burdened municipal real property tax; and

**WHEREAS**, the federal government recently finalized regulations for stormwater management in smaller communities operating Separate Storm Sewer Systems (MS4's) known as the National Pollutant Discharge Elimination System (NPDES) Phase II Rule, which is designed to comply with the requirements of a 1987 amendment to the 1972 Clean Water Act by protecting streams; rivers and beaches from polluted non-point storm water runoff; and

**WHEREAS**, all operators of small MS4's, of which all LISWIC member municipalities are categorized, must develop a comprehensive Storm Water Pollution Prevention Plan and submit, to the New York State Department of Environmental Conservation (NYSDEC), a "Notice of Intent" (NOI) of such plan by March 10, 2003, with full implementation of the submitted plan achieved by March 2008; now therefore be it

**RESOLVED**, that the City Council does, herein, support the efforts of LISWIC to further study the formation of a Stormwater Utility District to advance the efficiency and effectiveness in managing surface water runoff and the network of streams, brooks and ponds that eventually flow into the Long Island Sound; and be it

**FURTHER RESOLVED**, that such a Stormwater Utility District organized on a regional basis structured for the single purpose of managing surface water runoff and water quality can better plan, monitor, maintain, and construct facilities that will enhance the overall management and control of stormwater with a dedicated funding source that will relieve member municipalities from the burden of taxing its residents and the obligation to individually provide required programs and services; and be it

**FURTHER RESOLVED**, that the City Council does hereby support the efforts of LISWIC to further study the formation of a Stormwater Utility District to assume responsibility for compliance with the NPDES Phase II Rule; and be it

**FURTHER RESOLVED**, that the Mayor and City Council hereby support the efforts of LISWIC to further study the formation of a stormwater utility district in order to provide potential member municipalities the information necessary to determine whether to join and, further, supports the preparation of draft legislation to the New York State Legislature for consideration subject to review and approval of the final legislation by the City Council.

**ROLL CALL:**

**AYES:** Mayor Otis, Councilmen Chu, Cunningham, Cypher, Hutchings,  
Larr and McKean

**NAYS:** None

**ABSENT:** None

The resolution passed.

6. Consideration of a grant application by the Long Island Sound Watershed Intermunicipal Council (LISWIC) for EPF Assistance to Regulated MS4s for Stormwater Phase II Implementation

City Manager Shew said The Long Island Sound Watershed Intermunicipal Council (LISWIC) is applying for a grant that would provide funds to conduct further analysis and investigation necessary to answer various questions in regard to management, jurisdiction, and financing as well as the operations and management of such a district and said each involved jurisdiction is required to submit a Letter of Intent which would require a contribution toward the matching costs of the grant. He said the maximum contribution, assuming every community is a participant, would be approximately \$5,000, much of which could be as in-kind services. The Mayor said LISWIC would not be particularly sympathetic to non-contributors. The Council requested the letter of intent from the City of Rye place a cap on the contribution at \$5000.

Councilman McKean made a motion, seconded by Councilwoman Larr, to approve the following resolution:

**RESOLVED**, that the City Manager be authorized to sign a Letter of Intent supporting an application by LISWIC for EPF Assistance to Regulated MS4's for Stormwater Phase II Implementation and that the in-kind contribution be limited to \$5000.

**ROLL CALL:**

**AYES:** Mayor Otis, Councilmen Chu, Cunningham, Cypher, Hutchings,  
Larr and McKean

**NAYS:** None

**ABSENT:** None

7. Consideration of a proposed resolution requiring scheduling of citywide referendums on general election date

Councilman Chu said he is concerned about single-issue referendums which usually have low turnout (9.7% for the Fire House; 21% for the Recreation Bond) and tend to be held at a time favorable for those advocating the project, so he would like to propose that future referendums, unless they are for a serious public safety issue, be scheduled at the time of the General Election. He said he felt this procedure would show good fiscal discipline, give the electorate more opportunity to be informed, and have the vote be less favorable toward any special interest group.

Mayor Otis referred to comments from the City Manager which pointed out that the proposal could create a number of major issues in capital project planning, budgeting and costs; would limit planning and funding flexibility, make capital project planning less efficient and effective and would increase costs. Costs related to planning, engineering and design conducted prior to a referendum, for example, would have to be borne by the City drawing down the fund balance; delays in holding a referendum would delay a project which could add to the cost; capital projects might be pushed into a subsequent year; and the City could be hampered in its ability to utilize the most advantageous bond rates. The Mayor added that there may be legal issues involved and it is possible that such a proposal is not allowed under State Voter rights. He also suggested it might be interesting to see how many other municipalities have such a restriction.

Councilman Cypher thought it would be a good idea to limit the number of referendums and to have a policy in place, but that the goal might be to do the best the City can to follow such a policy. Councilwoman Cunningham agreed that turnout is usually low, but would be interested in hearing what the City's Bond Counsel and Corporation Counsel have to say and in making sure that such a resolution doesn't limit the Council's powers. Councilman McKean urged more research, homework, input and thoughtful deliberation. *Matt Fahey*, a member of the Finance Committee, discussed the City's debt ratio and confirmed that the committee had not voted on this proposal. *Gerry Seitz*, 141 Kirby Lane, agreed with Corporation Counsel, Kevin Plunkett that it would be wise to check with the City's Bond Counsel and urged researching the suggestion to explore both legal and business issues.

Councilman Hutchings made a motion, seconded by Councilwoman Cunningham and unanimously carried, that the suggestion be further researched and placed on the next agenda for more discussion. Councilman Cypher made an addition to the motion, also seconded by Councilwoman Cunningham and unanimously carried, that the suggestion be referred also to the Finance Committee, the Corporation Counsel, and the Bond Counsel for their input.

8. Request for permission for the Recreation Department to close Purchase Street for special activities associated with the 51<sup>st</sup> Anniversary of the Halloween Window Painting Contest

Councilwoman Cunningham made a motion, seconded by Councilman McKean and unanimously carried, to approve the request from the Recreation Department to close Purchase Street from 8 A.M – 3 P.M. from Locust Avenue to the Chase Manhattan Bank for special activities associated with the 51<sup>st</sup> Anniversary of the Halloween Window Painting Contest to be held on October 19, 2003 (rain date: October 26). The approval was granted with the understanding that the safety issues raised by George Wickham concerning access, if necessary, by fire trucks in case of emergency, be addressed.

9. Request for permission for the Recreation Department to use the Village Green for special activities associated with the 51<sup>st</sup> Anniversary of the Halloween Window Painting Contest

Councilwoman Larr made a motion, seconded by Councilman McKean and unanimously carried, to approve the request of the Recreation Department to use the Village Green for special activities associated with the 51<sup>st</sup> Anniversary of the Halloween Window Painting Contest on October 19, 2003 (rain date: October 26).

10. Three appointments to the Boat Basin Commission, by the Council, for two-year terms expiring January 1, 2006

Mayor Otis made a motion, seconded by Councilman Cypher and unanimously carried, to approve the appointments of Robert Rispoli, Richard Dempsey and Ted Konopka to the Boat Basin Commission for two-year terms expiring January 1, 2006.

11. Designation of one member to the Boat Basin Nominating Committee

Mayor Otis made a motion, seconded by Councilman Cypher and unanimously carried, to designate Jeffrey Garcia a member of the Boat Basin Nominating Committee for a one-year term expiring January 1, 2005.

12. Six appointments to the Rye Golf Club Commission, by the Council, five for two-year terms expiring January 1, 2006 and one for a one-year term expiring January 1, 2005

Councilman McKean made a motion, seconded by Councilwoman Larr and unanimously carried, to approve the appointments of Frank Adimari, Bruce Boehmcke, Dan DeVito, Jean Romano and Richard Verille to the Rye Golf Club Commission for two-year terms expiring January 1, 2006 and Ian Dunn for a one-year term expiring January 1, 2005.

13. Designation of two members to the Rye Golf Club Nominating Committee

Councilwoman Cunningham made a motion, seconded by Councilwoman Larr and unanimously carried, to approve the designation of Adrienne Belluscio and Bill Meyers to the Rye Golf Club Nominating Committee for a one-year term expiring January 1, 2005.

14. Bids for Pump Station Generators

City Manager Shew said the projects requested in agenda items 14-16 were all within the Capital Improvement Plan. He noted this project is to provide auxiliary power; that the generator operates on natural gas which requires less frequent testing; and that the price is well within the expected range so it is acceptable to accept the single bid. The bid tabulation is shown below:

**Pump Station Generators  
Bid #3-03**

Contractor's Name	Contractor's Price Bid	Percent Difference	Position
Kinsley Power Systems	\$26,505.00	0%	1

Councilwoman Cunningham made a motion, seconded by Councilman McKean to adopt the following resolution.

**RESOLVED**, that Bid #3-03, Pump Station Generators, is hereby awarded to Kinsley Poser Systems, the sole bidder meeting specifications, in the amount of \$26,505.

ROLL CALL:

AYES: Mayor Otis, Councilmen Chu, Cunningham, Cypher, Hutchings,  
Larr and McKean

NAYS: None

ABSENT: None

15. Bids for Miscellaneous Drainage Repairs and Improvements City Wide for 2003

The City Manager recommended approval of the City Engineer's recommendation and mentioned that the improvements would appear on Barlow Lane, Green Street, Fairmont and Coolidge Avenues. The bid tabulation is shown on the following page.

**Miscellaneous Drainage Repairs and Improvements City Wide  
Contract #2003-09**

Name of Bidder				Delvito Contracting		HLI Construction		ELQ Industries		Peter J. Landi	
#	Items	Quantity		Unit	Total	Unit	Total	Unit	Total	Unit	Total
I 102 S	Catch Basins	15	Each	\$1,700.00	\$25,500.00	\$2,500.00	\$37,500.00	\$2,700.00	\$40,500.00	\$2,900.00	\$43,500.00
M 102	Drain Manholes	5	Each	\$1,650.00	\$8,250.00	\$4,500.00	\$22,500.00	\$2,750.00	\$13,750.00	\$2,900.00	\$14,500.00
207.03	Filter Fabric	400	S.Y.	\$2.00	\$800.00	\$2.25	\$900.00	\$2.00	\$800.00	\$2.00	\$800.00
11.12	12" CMP	300	L.F.	\$22.00	\$6,600.00	\$27.00	\$8,100.00	\$84.00	\$25,200.00	\$90.00	\$27,000.00
11.15	15" CMP	100	L.F.	\$25.00	\$2,500.00	\$37.50	\$3,750.00	\$86.00	\$8,600.00	\$100.00	\$10,000.00
603.4	12" CAP	100	L.F.	\$25.00	\$2,500.00	\$27.00	\$2,700.00	\$85.00	\$8,500.00	\$125.00	\$12,500.00
11.06	6" Sch. PVC	50	L.F.	\$8.00	\$400.00	\$17.00	\$850.00	\$70.00	\$3,500.00	\$70.00	\$3,500.00
603.61	15" RCP Class IV	100	L.F.	\$38.00	\$3,800.00	\$45.00	\$4,500.00	\$90.00	\$9,000.00	\$100.00	\$10,000.00
91	¾ Stone	200	C.Y.	\$18.00	\$3,600.00	\$35.00	\$7,000.00	\$37.00	\$7,400.00	\$35.00	\$7,000.00
U 5	Unclassified Excavation	50	C.Y.	\$10.00	\$500.00	\$275.00	\$13,750.00	\$30.00	\$1,500.00	\$35.00	\$1,750.00
5	Trench Excav. Earth	300	C.Y.	\$15.00	\$4,500.00	\$37.50	\$11,250.00	\$19.00	\$5,700.00	\$40.00	\$12,000.00
R 5	Trench Excav. Rock	25	C.Y.	\$70.00	\$1,750.00	\$225.00	\$5,625.00	\$225.00	\$5,625.00	\$85.00	\$2,125.00
8502.501	Saw Cut Pavement	600	L.F.	\$3.00	\$1,800.00	\$12.50	\$7,500.00	\$3.50	\$2,100.00	\$5.00	\$3,000.00
304.03	Subbase Course, Type 2	50	C.Y.	\$15.00	\$750.00	\$35.00	\$1,750.00	\$38.00	\$1,900.00	\$35.00	\$1,750.00
403.13	Asphalt Binder-Type 3	60	Ton	\$70.00	\$4,200.00	\$85.00	\$5,100.00	\$85.00	\$5,100.00	\$120.00	\$7,200.00
403.1701	Asphalt Top-type 6F	30	Ton	\$80.00	\$2,400.00	\$75.00	\$2,250.00	\$85.00	\$2,550.00	\$120.00	\$3,600.00
17 K	Controlled Density Fill	30	C.Y.	\$70.00	\$2,100.00	\$85.00	\$2,550.00	\$90.00	\$2,700.00	\$100.00	\$3,000.00
A 97	Concrete Curb	100	L.F.	\$18.00	\$1,800.00	\$35.00	\$3,500.00	\$30.00	\$3,000.00	\$30.00	\$3,000.00
F 5 C	Backfill (earth)	100	C.Y.	\$10.00	\$1,000.00	\$21.00	\$2,100.00	\$20.00	\$2,000.00	\$30.00	\$3,000.00
610 A	Top Soil & Seed	100	S.Y.	\$6.00	\$600.00	\$22.50	\$2,250.00	\$10.00	\$1,000.00	\$3.00	\$300.00
Contractor's Total				\$75,350.00		\$145,325.00		\$150,425.00		\$169,525.00	
Engineer's Total				\$75,350.00		\$145,425.00		\$150,425.00		\$169,525.00	
Position				1		2		3		4	
% Above Low Bidder				0.00%		93.00%		99.64%		124.98%	



Councilwoman Larr made a motion, seconded by Councilwoman Cunningham, to adopt the following resolution:

**RESOLVED**, that Contract 2003-09. Miscellaneous Drainage Repairs and Improvements City Wide, is hereby awarded to Delvito Contracting, Inc., the lowest bidder meeting specifications, in the amount of \$75,350.

**ROLL CALL:**

**AYES:** Mayor Otis, Councilmen Chu, Cunningham, Cypher, Hutchings,  
Larr and McKean

**NAYS:** None

**ABSENT:** None

**16. Bids for Westchester Beach Club Pump Station Pump Replacements**

The City Manager explained that this replacement contains a spare pump which can be used as a back-up if necessary and that while the original station was paid for by Westchester Beach Club it has been accepted by the City as it serves the whole area of Manursing Island and therefore is to be maintained by the City of Rye. The bid tabulation is shown below.

**Westchester Beach Club Pump Station Pump Replacements  
Contract #2003-10**

Contractor's Name	Contractor's Price Bid	Alternate #1 Supply Spare Pump	Percent Difference	Position
Fred J. Riehm, Inc.	\$79,000.00	\$14,000.00	0%	1
Southeast Mechanical Corp.	\$84,956.00	\$12,875.00	7.5%	2
Eventus Construction Co., inc.	\$128,000.00	\$10,000.00	63.0%	3

Councilwoman Larr made a motion, seconded by Councilwoman Cunningham, to adopt the following resolution:

**RESOLVED**, that Contract 2003-10. Westchester Beach Club Pump Station Pump Replacements, is hereby awarded to Fred J. Riehm, Inc., the lowest bidder meeting specifications, in the amount of \$93,000 (including \$14,000 for the spare pump).

ROLL CALL:

AYES: Mayor Otis, Councilmen Chu, Cunningham, Cypher, Hutchings,  
Larr and McKean

NAYS: None

ABSENT: None

17. Draft unapproved minutes of the special meeting held August 11, 2003, the regular meeting of the City Council held August 13, 2003 and the special meeting held on August 25, 2003

Councilwoman Cunningham made a motion, seconded by Councilman Chu and unanimously carried, to adopt the minutes of the special meeting of the City Council held on August 11, 2003.

Councilwoman Cunningham made a motion, seconded by Councilman McKean and unanimously carried, to adopt the minutes of the regular meeting of the City Council held on August 13, 2003, as amended.

Councilwoman Larr made a motion, seconded by Councilwoman Cunningham and unanimously carried, to adopt the minutes of the special meeting of the City Council held on August 25, 2003.

18. Miscellaneous communications and reports

Councilwoman Cunningham congratulated City Comptroller Michael Genito for once again receiving the Distinguished Budget Presentation Award from the Government Finance Officers Association.

Councilwoman Cunningham asked the Assessor for clarification on the Certificate of Final Special Franchise Assessment regarding the equalization rate for Metromedia Fiber Network.

Councilman Cypher reported that he had heard compliments from William Murphy, head of Westchester County Emergency Services for Commissioner Connors and his professional handling at the time of the blackout. The Mayor also commented on the great job done by the firemen and DPW workers as well as Casey Liebst and Susan Morison from City Hall who were at the command center.

Councilman Hutchings expressed thanks to the Mayor and to Susan Morison for their help in preparing a proclamation for the reunion of IBM Communicators which will be held at Whitby Castle on September 9<sup>th</sup>.

Councilwoman Cunningham inquired about the cooperation requested by Westchester County concerning application for Environmental Protection Fund (EPF) grants to assist regulated Municipal Separate Storm Sewer Systems (MS4's) in the County and asked how this fits in with other LISWIC actions? Mayor Otis replied that this kind of grant was more for environmental education programs and that the County's model for sewer programs is somewhat different from the LISWIC model which is proposing a joint effort by communities. He suggested the City Manager look into the matter.

Councilman McKean requested an article from *The New York Times* concerning the Federal Reserve be included with a future Council packet.

19. Old Business

There was no old business to come before the Council.

20. New Business

There was no new business to come before the Council.

Councilwoman Cunningham made a motion, seconded by Councilwoman Larr and unanimously carried to adjourn to Executive Session to discuss a personnel matter at 9:29 P.M.

The Council reconvened at 9:54 P.M.

21. Adjournment

There is no further business to discuss, Councilman McKean made a motion, seconded by Councilwoman Cunningham and unanimously carried, to adjourn the meeting at 9:55 P.M.

Respectfully submitted,

Susan A. Morison  
City Clerk